

By: Harris

S.B. No. 231

A BILL TO BE ENTITLED

AN ACT

relating to child support enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (g), Section 105.006, Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and~~[, when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION 2. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this

1 subsection.

2 SECTION 3. Section 108.004, Family Code, is amended to read
3 as follows:

4 Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION.
5 On the loss of jurisdiction of a court under Chapter 155, 159, or
6 262, the clerk of the court shall transmit to the central registry
7 of the bureau of vital statistics a certified record, on a form
8 provided by the bureau, stating that jurisdiction has been lost,
9 the reason for the loss of jurisdiction, and the name and all
10 previous names, date of birth, and place of birth of the child.

11 SECTION 4. Subsections (a) and (b), Section 154.186, Family
12 Code, are amended to read as follows:

13 (a) The obligee, obligor, or a child support agency of this
14 state or another state may send to the employer a copy of the order
15 requiring an employee to provide health insurance coverage for a
16 child or may include notice of the medical support order in an order
17 or writ of withholding sent to the employer in accordance with
18 Chapter 158.

19 (b) In an appropriate Title IV-D case, the Title IV-D agency
20 of this state or another state shall send to the employer the
21 national medical support notice required under Part D, Title IV of
22 the federal Social Security Act (42 U.S.C. Section 651 et seq.), as
23 amended. The notice may be used in any other suit in which an
24 obligor is ordered to provide health insurance coverage for a
25 child.

26 SECTION 5. Section 157.102, Family Code, is amended to read
27 as follows:

1 Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT
2 OFFICIALS. Law enforcement officials shall treat a ~~the~~ capias or
3 arrest warrant ordered under this chapter in the same manner as an
4 arrest warrant for a criminal offense and shall enter the capias or
5 warrant in the computer records for outstanding warrants maintained
6 by the local police, sheriff, and Department of Public Safety. The
7 capias or warrant shall be forwarded to and disseminated by the
8 Texas Crime Information Center and the National Crime Information
9 Center.

10 SECTION 6. Section 157.268, Family Code, is amended to read
11 as follows:

12 Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child
13 support collected shall be applied in the following order of
14 priority:

- 15 (1) current child support;
- 16 (2) non-delinquent child support owed;
- 17 (3) interest on the principal amounts specified in
18 Subdivisions (4) and (5);
- 19 (4) the principal amount of child support that has not
20 been confirmed and reduced to money judgment;
- 21 (5) the principal amount of child support that has
22 been confirmed and reduced to money judgment; and
- 23 (6) the amount of any ordered attorney's fees or costs,
24 or Title IV-D service fees authorized under Section 231.103 for
25 which the obligor is responsible.

26 SECTION 7. Subsection (a), Section 157.318, Family Code, is
27 amended to read as follows:

1 (a) A lien is effective until all current support and child
2 support arrearages, including interest, ~~and~~ any costs and
3 reasonable attorney's fees, and any Title IV-D service fees
4 authorized under Section 231.103 for which the obligor is
5 responsible, have been paid or the lien is otherwise released as
6 provided by this subchapter.

7 SECTION 8. Section 157.324, Family Code, is amended to read
8 as follows:

9 Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR
10 LIEN. A person who knowingly disposes of property subject to a
11 child support lien or ~~or~~ who, after a foreclosure hearing, fails to
12 surrender on demand nonexempt personal property as directed by a
13 court ~~[or administrative order]~~ under this subchapter ~~[, or who~~
14 ~~fails to comply with a notice of levy under this subchapter]~~ is
15 liable to the claimant in an amount equal to the value of the
16 property disposed of or not surrendered, not to exceed the amount of
17 the child support arrearages for which the lien ~~[, notice of levy,~~
18 or foreclosure judgment was issued.

19 SECTION 9. Section 157.327, Family Code, is amended by
20 amending Subsection (b) and adding Subsection (f) to read as
21 follows:

22 (b) The notice under this section must:

23 (1) identify the amount of child support arrearages
24 owing at the time the amount of arrearages was determined or, if the
25 amount is less, the amount of arrearages owing at the time the
26 notice is prepared and delivered to the financial institution; and

27 (2) direct the financial institution to pay to the

1 claimant, not earlier than the 15th day or later than the 21st day
2 after the date of delivery of the notice, an amount from the assets
3 of the obligor or from funds due to the obligor that are held or
4 controlled by the institution, not to exceed the amount of the child
5 support arrearages identified in the notice, unless:

6 (A) the institution is notified by the claimant
7 that the obligor has paid the arrearages or made arrangements
8 satisfactory to the claimant for the payment of the arrearages;

9 (B) the obligor or another person files a suit
10 under Section 157.323 requesting a hearing by the court; or

11 (C) if the claimant is the Title IV-D agency, the
12 obligor has requested an agency review under Section 157.328.

13 (f) A financial institution may deduct the fees and costs
14 identified in Subsection (c) from the obligor's assets before
15 paying the appropriate amount to the claimant.

16 SECTION 10. Section 157.330, Family Code, is amended to
17 read as follows:

18 Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A
19 person who possesses or has a right to property that is the subject
20 of a notice of levy delivered to the person and who refuses to
21 surrender the property or right to property to the claimant on
22 demand is liable to the claimant in an amount equal to the value of
23 the property or right to property not surrendered but that does not
24 exceed the amount of the child support arrearages for which the
25 notice of levy has been filed.

26 (b) A claimant may recover costs and reasonable attorney's
27 fees incurred in an action under this section.

1 SECTION 11. Subchapter C, Chapter 158, Family Code, is
2 amended by adding Section 158.214 to read as follows:

3 Sec. 158.214. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In
4 this section, "lump-sum payment" means income in the form of a bonus
5 or commission or an amount paid in lieu of vacation or other leave
6 time. The term does not include an employee's usual earnings or an
7 amount paid as severance pay on termination of employment.

8 (b) This section applies only to an employer who receives an
9 administrative writ of withholding in a Title IV-D case that
10 requires that an obligor's income be withheld for child support
11 arrearages.

12 (c) An employer to whom this section applies may not make a
13 lump-sum payment to the obligor in the amount of \$500 or more
14 without first notifying the Title IV-D agency that issued the writ
15 to determine whether all or a portion of the payment should be
16 applied to the child support arrearages.

17 (d) After notifying the Title IV-D agency in compliance with
18 Subsection (c), the employer may not make the lump-sum payment
19 before the earlier of:

20 (1) the 10th day after the date on which the employer
21 notified the Title IV-D agency; or

22 (2) the date on which the employer receives
23 authorization from the Title IV-D agency to make the payment.

24 (e) If the employer receives a timely authorization from the
25 Title IV-D agency under Subsection (d)(2), the employer may make
26 the payment only in accordance with the terms of that
27 authorization.

SECTION 12. Subsection (a), Section 158.502, Family Code, is amended to read as follows:

(a) An administrative writ of withholding under this subchapter may be issued by the Title IV-D agency at any time until all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid. The writ issued under this subsection may be based on an obligation in more than one support order.

SECTION 13. Section 158.506, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a review under this section fails to resolve any issue in dispute, the obligor ~~[is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor]~~ may file a motion with the court to withdraw the administrative writ of withholding and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

(d) If an administrative writ of withholding issued under this subchapter is based on an order of a tribunal of another state that has not been registered under Chapter 159, the obligor may file a motion with an appropriate court in accordance with Subsection (c).

SECTION 14. Section 158.507, Family Code, is amended to

read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING.
An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION 15. Subsection (b), Section 231.006, Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

(1) all arrearages have been paid;

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or

(3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION 16. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION 17. Subsections (a), (b), and (c), Section 231.012, Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall~~

~~establish~~ a ~~[county advisory]~~ work group representing public and private entities with an interest in child support enforcement in this state to work with ~~[assist]~~ the director ~~[Title IV-D agency]~~ in developing strategies to improve ~~[and changing]~~ child support enforcement in this state ~~[programs that affect counties. The work group shall consist of at least one of each of the following:~~

- ~~[(1) county judge;~~
- ~~[(2) county commissioner;~~
- ~~[(3) district clerk;~~
- ~~[(4) domestic relations officer;~~
- ~~[(5) associate judge for Title IV-D cases; and~~
- ~~[(6) district court judge].~~

(b) The director of the Title IV-D agency shall appoint the members of the work group after consulting with appropriate public and private entities ~~[the relevant professional or trade associations of the professions that are represented on the work group. The director of the Title IV-D agency shall determine the number of members of the work group and shall designate the presiding officer of the group].~~

(c) The work group shall meet as convened by the director of the Title IV-D agency and consult with ~~+~~

- ~~[(1) advise]~~ the director on matters relating to ~~[of the Title IV-D agency of the impact on counties that a proposed]~~ child support enforcement in this state, including the delivery of Title IV-D services ~~[program or a change in a program may have;~~
- ~~[(2) establish a state-county child support improvement plan;~~

1 ~~[(3) advise the Title IV-D agency on the operation of~~
2 ~~the state disbursement unit,~~

3 ~~[(4) plan for monetary incentives for county~~
4 ~~partnership programs,~~

5 ~~[(5) expand the number of agreements with counties for~~
6 ~~enforcement services, and~~

7 ~~[(6) work with relevant statewide associations on a~~
8 ~~model partnership agreement].~~

9 SECTION 18. Section 231.103, Family Code, is amended by
10 amending Subsections (a) and (f) and adding Subsection (g-1) to
11 read as follows:

12 (a) The Title IV-D agency may:

13 (1) charge a \$25 annual ~~[reasonable]~~ application fee;

14 (2) charge appropriate ~~[a \$25 annual]~~ service fees
15 ~~[fee]~~; and

16 (3) to the extent permitted by federal law, recover
17 costs for the services provided in a Title IV-D case.

18 (f) The state disbursement unit established and operated by
19 the Title IV-D agency under Chapter 234 may collect a monthly
20 service fee of \$3 in each case in which ~~[deducted from]~~ support
21 payments are processed through the unit ~~[in a case for which the~~
22 ~~Title IV-D agency is not providing services]~~.

23 (g-1) A fee authorized under this section for providing
24 child support enforcement services is part of the child support
25 obligation if the obligor is responsible for the fee, and may be
26 enforced against the obligor through any method available for the
27 enforcement of child support, including contempt.

SECTION 19. Section 233.019, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A child support order issued by a tribunal of another state and filed with an agreed review order as an exhibit to the agreed review order shall be treated as a confirmed order without the necessity of registration under Subchapter G, Chapter 159.

SECTION 20. Subsection (a), Section 234.008, Family Code, is amended to read as follows:

(a) Not ~~[Except as provided by Subsection (c) or (d), not]~~ later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION 21. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

- (1) any party to the proceeding;
- (2) an amicus attorney;
- (3) an attorney ad litem;
- (4) a friend of the court;
- (5) a guardian ad litem;
- (6) a domestic relations office;

1 (7) a prosecuting attorney or juvenile court acting in
2 a proceeding under Title 3; or

3 (8) a governmental entity or court acting in a
4 proceeding under Chapter 262.

5 SECTION 22. The following provisions of the Family Code are
6 repealed:

7 (1) Subsection (a-1), Section 231.006;

8 (2) Section 231.011;

9 (3) Subsection (d), Section 231.103;

10 (4) Section 231.310;

11 (5) Subsections (c), (d), and (e), Section 234.008;

12 and

13 (6) Chapter 235.

14 SECTION 23. (a) Subsection (f), Section 157.327, Family
15 Code, as added by this Act, applies only to a financial institution
16 that receives a notice of levy under that section on or after the
17 effective date of this Act. A financial institution that receives a
18 notice of levy under that section before the effective date of this
19 Act is governed by the law in effect on the date the notice of levy
20 is received, and the former law is continued in effect for that
21 purpose.

22 (b) The changes in law made by this Act to Section 158.506,
23 Family Code, apply only to an administrative writ of withholding
24 issued on or after the effective date of this Act. An
25 administrative writ of withholding issued before the effective date
26 of this Act is governed by the law in effect at the time the
27 administrative writ is issued, and the former law is continued in

1 effect for that purpose.

2 (c) The changes in law made by this Act to Section 231.103,
3 Family Code, apply only to fees that are incurred on or after the
4 date that the rules adopted in accordance with that section take
5 effect.

6 (d) The changes in law made by this Act relating to a court
7 order establishing paternity or the obligation to pay child support
8 apply only to a suit affecting the parent-child relationship filed
9 on or after the effective date of this Act. A suit affecting the
10 parent-child relationship filed before the effective date of this
11 Act is governed by the law in effect on the date the suit was filed,
12 and the former law is continued in effect for that purpose.

13 (e) The changes in law made by this Act relating to the
14 modification or enforcement of a child support order rendered
15 before the effective date of this Act apply only to a proceeding for
16 modification or enforcement that is commenced on or after the
17 effective date of this Act. A proceeding for modification or
18 enforcement that is commenced before the effective date of this Act
19 is governed by the law in effect on the date the proceeding was
20 commenced, and the former law is continued in effect for that
21 purpose.

22 SECTION 24. This Act takes effect September 1, 2007.